

REASONS

Why the Rector of P.

TOOK THE

Oath of Allegiance

T O

KING WILLIAM

A N D

QUEEN MARY

L O N D O N,

Printed by *H. Clark*, for the Author, and are to be
Sold by *R. Baldwin*, in the *Old Baily*. 1690.

R. L. A. S. O. N.

Very Rev. the Rector of St. Paul's

Church of England

KING WILLIAM

QUEEN MARY

L. O. N. D. O. N.

Printed by W. L. A. S. O. N. at the Press of the
Rev. R. L. A. S. O. N. in the City of London.

REASONS

For taking the

Oath of Allegiance;

WHEN a man is about to discourse a Case of Conscience, it's not proper to entertain the Reader with Complements, or insinuate into him with Sights of Eloquence; but to refer his Judgment free and unpossess'd to the Consideration of the Strength or Weight of his Arguments. And therefore without any Formality or Careless bestow'd upon him, I fall directly upon the point in question,

Whether a Clergyman, having first taken the Oath of Allegiance to King James, and afterwards that to King William and Queen Mary, be thereby involv'd in the Guilt of Perjury?

In Order to the Solution of this Doubt, I shall slit it into three more.

1. *What we were bound to, by Virtue of the Oath of Allegiance made to King James?*

2. *What we are oblig'd to, by the Oath given to King William and Queen Mary?*

3. *Whether the Obligation to the first, may not be thought to cease or expire, before the other was superinduc'd?*

To state the first of these, it will not be necessary to transcribe the whole Oath; but 'tis sufficient to single out such passages, as are most liable to Exception; and seem to contain such matter, as we have put our selves out of all Capacity to perform; if we will be sincere and true to the second, and the Assurances we have thereby given to the Accessors. And I suppose these are all, from which any Objections can be rais'd.

1. That we will do our endeavour to disclose and make known to his Majesty, &c. all Treasons and Traiterous Conspiracies, which we shall know or hear of to be against him.

2. That we will defend him to the utmost of our Power, against all Conspiracies and Contempts whatsoever.

3. That we will bear Faith and true Allegiance to him.

The first, that we will endeavour to disclose, &c. we have not put our selves out of a Capacity to perform; for this cannot be understood of open and avowed Wars, or oblige us to take Post, and travel Sea and Land, to let him know that his Crown is assum'd by another, and that there are mighty Preparations to invade that Kingdom also, which he has made his retreat; when he has already beheld enough with his own Eyes, and seen his Enemy encamp't against him in the open Field.

But should I by any Accident be made acquainted, with any private Conspiracy against his Person; to poyson or assassinate him, or cut him off by any other Clandestine or Sinister means; there lies no Obligation upon me to conceal it. These are wicked and inhuman Practices, against the Laws of Arms and Nations.

* *Alexander apud Q. Cur. lib. 4.*

* *Impia bella suscipitis, & cum arma habeatis, licitumini hostium capita.* And in this Case we have not promis'd to keep Counsel. For all Obligations to Secrecy, must be understood with this Exception, that the Business they impart be no Sin to be committed, for that we are bound to reveal that it may be prevented: Upon this Principle the Oath of Allegiance is founded; which could take no hold of a Romish Priest for whom it was chiefly intended, if when he has given his Faith to keep the Secrets of a penitent, he might not discover a Treasonable design. And *Garner's* Plea should have been admitted, who said, *he durst not inform of the Powder Plot, because it was communicated to him, under the sacred Seal of Confession.*

2. We promise, that we will defend him to the utmost of our Power, against all Conspiracies and Contempts whatsoever.

As for defending him from all Contempts, that is; that we will assert him to be our Rightful and Sovereign Prince, not to hold his Crown by the Favour of the Pope; nor to be deposeable by him or any other Person or Power whatsoever.

Which

Which does not oblige us to be always arguing and pleading for it, but when it may probably do good ; and upon the Concurrence of such Circumstances, they have expunged all that passage out of the later Oath, that we may not be a-bridg'd of that Liberty.

And to defend him from all Conspiracies, is to watch the motions of all those whom we suspect to be discontented and disaffected to his Government, or upon any Account to incline to the disturbance of him, or to introduce any other Person or Power ; that we will observe their Meetings and Cabals, dive as much as we may into the matter of their Consults ; use all diligence first to inform our selves, and then the King or his Officers, of any Plot or Practice that we shall learn to be carrying on against him.

And this is all that this particular obliges us to, as may appear, 1. because this is sufficient for him, and his Security ; and, 2. because we have no Power or Authority to do more.

1. Because this is sufficient. Let a Plot be hatcht with never so much Subtlety, and Stratagem ; let the Confederates be never so numerous and strong ; if it come to light before it be put in Execution, 'tis without any difficulty, or any further Assistance from us, easily baffl'd and disappointed. There needs no more than timely Detection, to save him from any Danger or Attempt against him. When the Prophet had told the King of *Israel*, of the Ambush that was laid for him ; there was no fear but he might escape it. And then the Informer was the real Author of that Deliverance, and may without any Impropriety of Speech, be said to defend him, and be styl'd the Saviour of the King and Nation.

2. Private Men have no Power to do more. Should they arm or associate themselves, without any further Order or Commission than this Oath of Allegiance, though with a sincere purpose to prevent, or seize, or disperse the Conspirators ; they are punishable as Traitors themselves.

Nay, to exceed a Commission a little in this Case, and with good Success too, is not without Peril of our Lives. Upon intimation that some of the principal of those who were engag'd in the Powder-plot, were hovering thereabouts, the Sheriff of *Worcester* raises the Power of his County to apprehend them. They fly, and he pursues, but not able to overtake

*Sanderson
de conse.
prat. 10.*

take them till they had escap'd beyond the Bounds of his Province; he still follows them into the Frontiers of the next, and there takes them Prisoners. But for this good Service he was forced to beg pardon, and in rigor of Law had forfeited his Life, for overpassing with his Power, the Borders of his own Jurisdiction. For all his Oath, the most Loyal Subject, if but a private Person, can do no more with Safety for the defence of his King, than discover a Treason. For that can never be accounted a Branch of our Duty or Allegiance, by the doing of which, we incur the Pain of Death. We never were oblig'd to more, and this we may still perform.

3. We promise that we will bear Faith and true Allegiance to him.

For the first, it concerns those who have enjoy'd any Offices or Places of Trust under him, who are hereby bound, faithfully to discharge the Duty and Service belonging to them. And such if they should enter into any new Covenant or Promise, to cease or forbear acting according to the Tenor of such Trust or Commission, have no benefit of this Apology. In the Poets Vision of Hell, there was one apartment for those, *Quique arma secum impia, nec veriti Dominorum fallere dextras.* But in relation to others, it signifies no more than Truth and Sincerity of

Virgil Æn.
6.

Allegiance. And what that imports is the grand question, and suppos'd to be an insuperable difficulty. The word being a Term of Art, the just and true value of which to us may not be exactly known; it seems to me reasonable and necessary to refer it to the Judgment of those, who are vers'd and learned in it: The Lawyers I mean, who in this Case I esteem the most able Casuists, for every man is to be believ'd and trusted in his own Profession; especially when there's little or no difference of Opinions amongst the Masters or Professors of it, but that they go unanimously one way. I could clearly acquiesce in this, without any Conflicts; but since others may think it not safe to submit to their Authority, I will reason a little about the Notion of Allegiance.

One grave and pious Author sends us much too far in the search, who would have us to seek it amongst the Records of the obsolete *Gothick*, feudal Laws, and infers that it must needs

needs signifie at this day some active warlike Endeavors in behalf of the Sovereign, because the Tenure of those Times was, upon condition that the Tenant should attend his Lord to the Wars, and the Security they gave to perform this, was swearing to bear Faith and true Allegiance to them.

Had there been a Controversie about the Sense of some Record or deed of equal date, there might have been some use of the Criticism, but it is not to be allow'd in the Interpretation of a modern Statute. Many strange absurdities would follow, if we were to expound words in present Writings, according to their primitive and original Use. How ridiculous did this make the Emperor *Claudius*, when in a Speech and Apology which he made to the Senate, it appear'd, that he took *Libertinus*, for the same man that it signify'd in the Time of *Appius Cæcus*? *Ignarus temporibus Appii & deinceps aliquandiu, libertinos dictos, non ipsos qui manumisterentur, sed ingenuos ex his procreatos.* He that hears the Name of Tyrant now, supposes him to be some savage Beast, or Monster rather than a Man; a Prince that employs all his Power to Cruelty and Oppression, that regards no Laws but those of his own Lusts, that tramples and insults upon the Lives and Fortunes of his Vassals with Pride and Pleasure. But time was when it was no Scandal or Reproach, a Title becoming the most moderate and indulgent Monarch. And by this rule Clemency and Tyranny should signifie the same thing; which according to the Idiotism of our Days are quite contrary.

Suet.
Claud. 24.

But supposing that the Name should through many Successions adhere to the same thing, there would arise great Incongruity betwixt them, because that individual to which it is so inseparably united, would in process of time differ from it self. So that if the same word should be appropriate still to the same thing, yet that, because it undergoes many Alterations, Transformations and Decays, cannot be rightly apprehended by one unalterable Notion. Because the things are subject to so much Vicissitude and Change, if the Words or Names continue the same, there must needs be some disproportion. *Rome* was once a small Street of Shepherds Tents, she grew to be one of the most sumptuous Cities in the World, is now much fallen from her Magnificence again;

again; yet in all these Variations she retains the same Name. Now he that should frame to himself an *Idea* of that City, in the case it stands, by the descriptions he meets about the Reign of *Augustus*, would be as much mistaken on one hand, as the Swane that measur'd it by his Mantua was on the other. Nothing in this World continues in the same State and Posture; but if any thing be more moveable and transient than another, 'tis the Affairs of Government, and the Terms and Forms that depend upon it.

Now after so many and great Revolutions as have happen'd to the Government, and such Exchanges and Regulations as have been made of the Revenue, and other Laws relating to the Support and Maintenance of it; when the Tenure it self is extinct, the *Militia* otherwise settl'd, the Knight of the Fee by Act of Parliament excus'd from going himself in Person, it cannot be that Allegiance should yet be equivalent to what it was in the Reign of King *Arthur*.

Yea I must advance further, and affirm that there is no Conclusion can be drawn from a word, because there is no Necessity that it should be taken in the full Latitude of that which was the received Sense at the penning of the Statute. For every single Term does encrease or abate of its natural force, by the structure of a sentence, and the influence of other words that are joyned with it. That Sentence may be corrected or restrain'd by other Paragraphs or Proviso's in the same Statute. And that Statute admit of several Limitations from other Laws made before or after it. The Author gives some indications that he is a Divine, and then he cannot be ignorant, that to make a right and sound interpretation of a Text, it is not sufficient to know the Etymology of the words, but we must seriously weigh the Context, compare it with other places of Scripture, and the acknowledg'd Principles of Faith; all which were vain and fruitless, if words were to stand inflexible in any certain and natural Sense. I hope therefore that good man will give me leave to say, that his Argument from those barbarous Laws is not conclusive.

It will from hence likewise follow, that I need not trace it through all the Labyrinths of the Law; for I think a few considerations will evince, that the Oath of Allegiance does not oblige us to any actual, military Service.

1. We cannot have a Judge of more Credit or Authority in this Cause than King *James*, in whose Reign, and for whose security against his Subjects of the Romish perswasion, the Oath was enjoyn'd. And he in his Apology for this Oath does often declare that nothing more is intended by it than bare Obedience. And upon that account does exaggerate the Injustice of the Pope, who by his Breve forbad the Catholicks to take it. And looks upon that as a command to them rebel, as if there were no medium betwixt that and Allegiance; and says that if they did not design that, they might safely make profession of it.

Nor does the Oath seem to be fram'd for the sake of those that would take it, but to discover those that would not. Rather that such might be excluded from all Employments, than that the King should make use of their Service. The Philosopher says 'tis a foolish thing to capitulate and entreat for that, which is in our own power and hands already. Since therefore the King had power before this, when his occasions call'd, to summon and compel them to go for or with him to the Wars, it was altogether superfluous and vain, to extort a promise from them to do that, which he might assure himself of, by more effectual and compendious means. The truth is, that the design and purpose of it was, to take care that none should creep into Offices or Commands, who when opportunity offer'd, might revolt and betray him.

2. 'Tis common to make Acts of Parliament for the naturalizing of Strangers, after which naturalization, they become to all intents and purposes, as natural born Subjects, and owe the same Faith and Allegiance; yet all Foreigners must of necessity be the natural Subjects of some other Sovereign Prince or State. Either therefore the King and the Houses deal very strangely, in bestowing that upon them as a favour and privilege, which they know must unavoidably involve them in that black Sin of Treachery and Disloyalty to one of their Sovereign Lords. Or else Allegiance must in their judgments be something payable to two several Princes though they should chance to contend: Which can be nothing but neutrality or non-opposition, for 'tis impossible he should be active on both sides, unless as a fugitive and deserter: Or if he could, by adhering to their Enemies becomes disloyal and rebellious unto both. Or else the obligation to his Ancient Lord must be suppos'd to cease and expire, upon this new Stipulation of his Subject.

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be a Capital Crime not to accept a Commission. Indeed to decline it in time of danger, may bring upon a man the reproach of a Coward, or the suspicion of being ill-affected to His Majesty's Person or Interest; but surely no Indictment lies against him for Perjury, or Attainder for Treason. Unless under such a Tyrant as *Domitian*, whom *Xiphilin* reports to have put *Herennius Senecio* to death for no other reason, but because after the Questorship he never sued for any higher Office. Upon the news of any Navy seen off of the Coasts, or some Insurrection in the Bowels of the Kingdom, if every man were bound to repair to the Camp, or lift himself at the first beat of Drum, there would be a strange Confluence of People, more in danger to be call'd in question for a Riot, than likely to be commended for their Loyalty. And if all that are left behind must be accus'd, Traitor will be a Title for the most, and wisest, and best men of the Nation, and there's none truly loyal but a few Bankrupts, Debauchees, Ragmen, and the very Scum of the Rabble.

When a Proclamation in these cases is us'd out, and professes to prescribe and teach us our duty exactly; it requires no more, but that we should not aid, or abett, that we should not adhere to, or any way assist the Kings Enemies, or the like: But never that we should desert our several Vocations, or that the Shepherd should leave his Sheep in the Wilderness, and go down to the Battle.

Nay more, he that has been List'd and Enroll'd the Kings Soldier, that has been in actual service, and afterwards Flies from his Colours, shall only be Prosecuted as a Felon, not Impeacht of Treason; nor shall his Indictment run for having done any thing
 7 H. 7. 1. contrary to his Allegiance: And if the forsaking of his Colours be not the Crime, the staying at home is surely less Criminal than that.

4. The Church of England has been alwayes Eminent for the Loyalty of her Principles. Upon this she justly values her self, and her Sons Pay her due Honor and Veneration: For this she Creates her self many Enemies, who asperse her as a Parasite and Flatterer of Princes. Even they, who are the parties concerned Applaud her for it, and one who profess he would Suffer no Diminution of his Prerogative, gave her this Testimony, That she ascribed enough to Monarchy. Yet after all this have I never found, that she carried the Poynt a jot higher than Nonresistance.

5. Every Law or Statute, once Enacted or received, must continue in force till it be Abrogated or annul'd. And therefore all
 subse-

Subsequent Acts, where there is no clause of Repeal, must be understood with Submission to those Senior Laws. And in this Statute for the Oath of Allegiance, there being no Syllable to Evacuate any Ancient Laws, it must needs leave us in Possession of all our Legal Privileges. Now Clergymen were exempted from all Martial Service both by Statute and Canon Law.

The Statute of 19 H. 7. 1. Which did oblige all others (of such Estate and Tenure) to attend the Royal Standard, when the King goes to War in Person; Provides that it shall not extend to any Spiritual Person. There were several Canons then in force, *Apost. Can. 82.* that forbid them, under heavy Censures the bearing of Arms, several Constitutions require they should be so Abstemious from Spilling of Blood; that they should not give a vote, not concur to the Sentence that may touch the Life or Limb of any Criminal, much less do they allow that we should become executioners, and Embrue our hands in the Blood of Rebels in the Field: * Nay this seems to be a Law of Nations; for the Heathens always spared their Priests, and upon what exigence soever they made new levies, never offer'd to draw them from the service of their Idols. These are Fundamental Articles in all Religions; That the Worship of God should be continually attended, that Sacrifices and Praise should be offered at his Altar without Intermision; and that the hands of those who are to Officiate at the Sacred Rites, should be Innocent and Clean from the Blood of all Men. Therefore since there were such Laws in being, and this later Statute must be so expounded as not to derogate from them, the Oath of Allegiance cannot oblige us to handle Sword nor Spear, or fight in the behalf of an injured and oppressed King. ** And by the Law we cannot be Priest. Origenn. Cent. Cels li. 8.*

And if it do not oblige us to any Actual service, there is no clashing of Oaths; for its not impossible to be patient, while the Competitors dispute it, nor does it imply any contradiction for *Amyclas*, to sleep in his Cottage, while *Caesar* and *Pompey*, are ready to joyn Battle, and try for the Fortune of the World in the adjacent Fields.

But this will be thought to pinch the Prerogative too much, and reduce the Sovereign into an evil state; to leave him destitute of sufficient means to subdue his Rebels, or resist the force of any Foreign Adversary; and expose his Kingdom as an easy Prey to any that shall have the Courage to Invade it.

If this were a necessary Consequence, I should be ashamed of the Premises; but there are Provisions enough for the Defence of

the Crown and the Realm, though these Principles were granted to be true. Though there be too many that pretend to the Office, and are of late endowed with the Liberties and Immunities belonging to it; yet all the Kingdom does not consist of Priests *de jure*, or *de facto*. Were all those who are in real Orders excused, there would be hands enough found for all the employments and services of War: There are certain standing Guards, and a Militia settled by Law, in the judgment of the great Council of the Land, sufficient for both the purposes; at least for ordinary occasions. And if any extraordinary, require an augmentation and encrease of their number, there never wants men enough that are ready to embrace the Service. There are always too many in that indigent and necessitous condition, that for Protection and present maintenance would be glad of any Adventure. There are abundance of Idle persons, who not willing to endure the fatigue of a manual Trade, or other Corporal Labor, will account it a preferment to be attired like Gentlemen, and domineer in a Country Village, though once or twice in a Campaign, they hazard their Lives in a Fight. Some out of stoutness of heart, are pleased with the sport; they seek occasion to Signalize themselves by Acts of Valour, and to cut out a Fortune with their Swords; some out of Love and Loyalty to the Prince, and many because they esteem it their own interest to support the Government. For Wise men always, and Fools when they have paid for their Learning, will joyn together as one man, to Repel any that should invade his Dominions from abroad, and subdue all those who begin any Sedition, or offer to disturb and disettle his Affairs at home. All which mustered together would make a formidable Army.

Or if all these should fall short, he may make up his levies with a Press. And then the Officers by their Oaths as well as Antecedent Duty (and the Common Souldiers at the Peril of Death,) must not desert their Commanders (which to men of that quality is a firmer Bond, than the fear of Perjury, or sense of Allegiance) are obliged to be true and faithful, and to stand and fall by him. We also fight with our Spiritual Weapons, Prayers and Tears; with these we assault Heaven; and beseech God Almighty who is the giver of all Victory, to cover the head of his Anoynted, to defend his Person that Rules by justice, and prosper his Arms that fights in the necessary defence of a Righteous cause. Upon these terms the Sovereign is as safe as Laws, Priviledges, or Humane strength can make him. And had all men in their several Stati-

Stations thus discharged their Duties I am perswaded that I had never been put to make this Apology for a second Oath of Allegiance.

2. *What we did oblige our selves to by the Oath given to King William and Queen Mary.*

And because this is contrived in more general terms, and so may seem to be more large and comprehensive than the former, or at least give occasion to more doubts, I think it convenient to enquire, 1. In whose sense it ought to be taken? 2. What that sense of it is?

1. In whose sense it ought to be taken? For although it be commonly received as a Maxim, and argued from as if it were a Principle beyond all dispute, That it ought to be taken, or must oblige us to the sense of the imposer, and the satisfaction that he expects by it: I cannot let it pass without examination. There are two admirable Authors that affirm the quite contrary, *H. Grot.* and *Bishop Sanderfon.*

|| The first says, *in dubio magis interpretemur contra eum qui legem dedit*, and *lib. 3. cap. 20. §. 26. contra venditorem, contra eum qui condiciones elocutus est.* Where there is any doubt, it must be construed to the disadvantage of the Lawgiver, the Seller, or any man who spoke or compos'd the words, or drew up the form of the contract. The Bishop says the same, the Swearer may take the advantage of an Ambiguity, because it behov'd the Legislator to have taken care, that his meaning had been set down in more plain and unexceptionable Terms. || *Grot. de jur. bel. 3. 23. §. 12.*

The Style of an Orator (said an eminent one) should be perspicuous and clear; he must make use of common and simple words, dispose them in a natural and easie Order, that even the ignorant and unskilful might apprehend him. *Quare non ut intelligere possit, sed ut non possit non intelligere, curandum.* He must take care to speak not that the hearers may understand him, but that they cannot mistake him. || *Quintil. inst. 8. 2.*

Much more is it incumbent upon Lawmakers; and they seem to be conscious of this, when upon all occasions, they muster up such a number of synonymous Terms, or such as amongst which we can see but small diversity. As in the beginning of the former Oath, *I do truly and sincerely acknowledge, profess, testify and declare.* They would not thus abound in words, descend to such minute distinctions, but that they know it to be their duty, to exclude all Cavils, and prevent every Fallacy, to block up the smallest Avenue;

nue, at which any, though never so subtle, that is not willing to be held, may make his escape; and allow it as an undoubted privilege of the Subject, to take the utmost inch of that liberty, of which they have not plainly debar'd them.

To say absolutely that every Oath should bind in the Sense of the Imposer, seems to me most irrational. All words in the World are equivocal, may signifie several things; there may be Amphibology in every Sentence, and the Construction of it made several ways, and the Imposer may have such flights and fetches, as a vulgar, simple Capacity could not conceive or imagin. When the obvious and appearing Sense contains nothing but what is innocent and agreeable, he may have such a reserv'd and secret meaning as the Swearer would abhor, and by no means have digested, if it had been fairly exprest in words at length. And now shall his Soul be caught in this Snare, and he be perjurd if he do not act according to that unknown Altitude? This has all the Absurdities of an implicit Faith, or swearing with an, &c. It leaves a man no security of promising any thing, puts a man's Conscience into the Custody and Power of another, who may throw the Guilt and Sin upon his Soul, in spite of all the Sincerity and Innocency of his own Intentions.

It would be of as ill consequence, to leave this liberty of interpretation entirely to the Swearer, who by this help might evacuate the force of all Obligations. So that there could be nothing transacted between a Governor and his People, but all Society must dissolve. And it will be a hard matter to fix and divide the right of interpretation justly and exactly between them. But this I think will not be deny'd, that it's sufficient to swear in that Sense that I believe the Imposer did intend, or would be content to be understood in. 'Tis not impossible but there might be amongst them a double meaning; perhaps they might mince the matter, so that the scrupulous might swallow it; and yet wish that it would go down with others in greater goblets. This I take to be certain, that God has given me reason and judgment, and appointed that to be my rule and guide; which can never certainly inform me what are the thoughts and designs of another, or what he may intend and mean; only this I may be sure of, that I am perswaded this is his meaning.

This premis'd, I declare my firm Opinion to have been, That the Imposers of this second Oath expected nothing that was inconsistent with the former.

1. Because most of them lay under the same obligation to it that we do. And that so many Persons of Wisdom, Integrity and Honour (though with a mixture of some that perhaps deserve no such Character) should deliberately contrive to perjure themselves first, that so they might ensnare the Nation ; No Reason, no Honesty, no Charity will permit me to suspect. In Scripture we sometimes meet with passages that seem repugnant to common reason and discretion, contrary to the Analogy of Faith, and to good Manners ; but when we are satisfi'd, that cannot be the true and genuine meaning, then we admit of any Criticism that will reconcile it with all those. Let us deal here with the same Candor, and the Controversie will be at an End. Resolve that such an Honorable Assembly could design nothing so grossly wicked, and then there will never want ways and explications to accommodate the difference between the Oaths.

2. There are strong reasons to believe, that they want no more in this than the other ; for

1. If he be acknowledg'd, by all the Advocates of the Cause to be only King *de facto* ; Why it should include more when refer'd to him, than it did to the rightful and natural Prince, is a Riddle, or rather a thing so irrational, as no body can suppose.

2. In the preamble of the Act, it is call'd the Oath of Allegiance or Obedience. And from that, 1. I infer that by Allegiance is meant no more than Obedience. 2. I shall prove that this Obedience can be no more than passive Obedience.

1. I gather from the order of the words, Allegiance, or Obedience, that Allegiance is no more than Obedience.

The Orator does caution his young Scholar, *Ne fortiori subjungatur aliquid infirmius, ut sacrilego fur, aut latroni petulans.* Quinil. inst. 9. 4. After he has accus'd a man of Sacrilege, he must not add, or simple Theft, or any word that may lessen or extenuate what went before. Nor would only Sons of Art, but even the rudest Ears be sensible of the absurdity, if any man should so speak. The Countrymen would be apt to ridicule a Judge, that should condemn a Prisoner to be hang'd, or whipt. Who would be so foolish, if he understood the degrees of Honour, to direct a Letter to Sir Philip Sidney Esquire ? No man could think it Civility or Sense, when he has saluted a Person by a better Title, to soyst in a second which shall recant and degrade him. When any man does multiply single Terms, and joyn them after this manner, it must either be, 1. because he thought the first intricate and obscure, and would explain it

it by one of more familiar use, but then the last must be of equal value ; or 2. it falls somewhat short of his intention, and so would amplify it by another of wider comprehension ; or 3. he has overlapt himself a little, and offers another to correct and restrain it. In all which cases, the later must be full match for the first, and therefore in this place, Allegiance must signifie no more than Obedience. But all this while I have gain'd no ground, if Obedience must be universal and active Obedience. Therefore,

2. This Obedience must be but passive Obedience. In a Kingdom thus constituted, where the King is to govern by Law, and the People so impatient of a few arbitrary Excesses ; it cannot be thought that they have invested him with such a Prerogative, that we should all be sworn to obey his single Command. And if it be in things only according to Law, that would be Obedience to the Laws, not to him. But whether to one or the other ; indefinite universal active Obedience cannot be proper matter of an Oath. The flattering Courtier who mov'd to have it pass into Law, that whatsoever the King his Master did, should be right and just, deserv'd to be hist out of the Society of wise and sober Men ; but this would be something worse ; for we must either swear that it is so, or that we will obey if it be otherwise. This is a defying a human Power, ascribing to it the divine Perfections ; nay in some measure advances it above God himself, not so much as reserving to us the liberty of paying our Duty and Allegiance to him ; Active Obedience cannot be the thing intended.

Plut. de superbis. Amongst the Eastern Nations, where Sovereignty was at the highest Elevation ; Non-resistance was all that was expected. Else in those days, when they did almost adore their Kings, *Teribazus* had not been so renown'd for his Loyalty, of which he is celebrated as a singular Example ; because that having his Sword in his hand, and able to have made a good Defence against one that ween'd about to assault him ; yet he dropt his weapon, yielded his hands to be manac'd, as soon as he heard that the Aggressor had the King's Warrant to apprehend him.

But this does seal and confirm all. That the Judges, when the Oath has been tender'd in their Courts, have admitted of these Explanations ; been content with the Promises of Quietness : And neither King nor Parliament ever sent them any Reprimand for it, or brought the Swearers to any further Test.

3. There are some presumptions that in this second Oath they might rather design something less. A Slave that has been manumitted,

mitted, may hire himself out for a year, in both cases here is Master and Servant; but it does not imply the same Authority on the one part, nor oblige the other to the same subjection. A Widow takes Husband who becomes a Father to her former Children, but they are not oblig'd to regard him in all respects as their natural Parent. Many times the same words may be retain'd, and yet must necessarily suffer some alteration and abatement in the sense.

All Languages are defective, have not words justly adapted to every thing, relation, and accident; * *Cicero* says that the Greeks had no equivalent for *innocentia*, and † *Seneca*, that the Romans had none for *deus*, and ‖ *Quintilian* could not translate *deus*; every Age produces strange junctures and occurrences, which whosoever would express, must have recourse to words that are already in use. But for as much as it must be the proper name of another thing, to which this new and anonymous thing is not parallel; therefore must it depart in some measure from its old signification, when apply'd to this.

Here was a case for which there was no president, and its plain, they were at a stand for want of words adequate to it. The King was withdrawn, and the Nation left in such disorder they knew not what to call it. They pitch upon Dereliction, or Abdication, not that either of these were commensurate to the state of the business; but none could be found that came more home to it. They do not deny many things to have been irregular and different from antient forms of proceeding: Yet they retain the same Names. A Convention not summon'd by Royal Writs, bears the Name of a Parliament; a Person not our natural born Prince, is stiled a King, the Caution which they give this King, is call'd Allegiance, but all these with some small strain and condescension from their true importance. It troubles a Government to deviate from former Terms, and of ill consequence to innovate even in words. It was one point of *Tiberius's* Policy, *scelerata nuper reperta prisca verbis obtere*. This is certain, that though they had design'd to moderate and abate something of the old Allegiance, they could not have given it any other Name.

2. Let it be remembred how many material passages are left out of the Oath, as the recognition of his just and undoubted Right, with which Allegiance seems to have a near Alliance. And as the Cause is manifest why that could not be continu'd, so is it palpable, that this abstract, these few words which they have selected, cannot have all the force and effect of the whole. Unless we must

suppose that the Parliament had espous'd the Principle of *Carneades*, that there is no such thing as Justice, no difference between right and wrong ; or else, that the cancelling of a Book is the same thing with the demanding of a Debt, and *abrogamus* with *statuimus*.

3. Observe what account the present and modish Commentators have given of Allegiance. Infinite Numbers of Tracts and Pamphlets are every day publish'd and spread abroad, which labor to persuade us, that Allegiance is no more than Obedience to a King while he rules according to Law ; that in many Cases it does not hinder from Resistance and the like : Now that these Notions are not disallow'd, by the Lawmakers themselves, seems probable

1. By their constant Connivance at a thing so notoriously known, and which it so much concerns them to punish and suppress, if they did not approve it. If it be well argu'd that the Court of *Rome* must have a secret liking of the seditious Doctrine of *Mariana* and other Jesuits, because the Books have been publish'd in some remote Catholick Countries without a Censure : How much more may we infer that our Governors allow of such Measures of Obedience and Submission, when they are written by their most inward Favorites, their most able Champions ; spread upon every Counter, and cry'd in every Street ? What a man sees, and yet shews no resentment at ; what he hears and does not reprove where he has Authority, he is suppos'd to ratifie and confirm. *Numb. 30. 4.*

Sene. Med.
As. 3.

2. Because its for their advantage and interest, and that carries a strong presumption of their liking and consent. When any Wickedness is committed whereof the Author is uncertain, enquire to whose account it turns, to whom the benefit accrues ; and you may conclude he did it. *Cui prodest scelus, is fecit.* Now were the People convinc'd that they were clearly absolv'd or disengag'd from all Duty to their former King, they had gain'd a point that would conduce more to their Settlement, than all their Preparations and Policies besides ; and since these are the only Arguments or Suppositions that can make it good, they may well be thought willing that this should be the Standard of Allegiance.

After all this, some will still urge, that this reduces it into Atoms, makes it but a noble and empty nothing. Or that this will not secure them from their Enemies without assistance, and then it is but meer delusion.

If it do not afford them all the satisfaction and assurance that they could wish, yet if it yield as much as the matter will bear it's not to be condemn'd. Yea perhaps this conduces most to their Peace and Safety.

1. Because if they should insist upon any further demands, and require not only Patience and Submission, but active Service and Assistance, it would make a dangerous Rupture, compel a Multitude of considerable Persons openly to dissent, and to study and labor for another Revolution; who now would sit down quiet, and as *Photinus* advises *Protony*, *Fatis accede Deisque*; so these would yield to the Torrent, and commit all to the Providence of God. *Lucan. lib.*

2. To carry those to fight against a King *de jure*, who were oblig'd to him by Oaths and all the Bonds of Allegiance; is to shew an ill light, and give a dangerous Example against themselves. For the same Persons when the Wind turns, may think that they have as good warrant to rebel against any other to whom they have sworn it. They would frustrate the Oath that is made to themselves, if they would have us to believe, that to bear Arms against our late Sovereign is no Breach of Allegiance. Should they be taught that this is no Violation of their Faith to him, they would scarce apprehend that it could be a more strong or insoluble Bond to their most Gracious King and Queen.

3. They will need no active Assistance from us, for they will find other Hands and Instruments to maintain their Possessions, and defend their Crown and Dignity. If they suppose that Allegiance does oblige men to act and fight in the behalf of their Sovereign, it can never be fit for them to employ, either those who take the Oaths, or those who refuse them, in any Action or Design against him. A Traitor can never be trusted, and he that has been false to his natural Lord, will never keep Faith with a Stranger: And he that will be true, can be no Friend to a violent Intruder. They can put no Confidence in either of these, but must strengthen themselves with foreign Aids and Alliances. Bands of mercenary Soldiers must be introduced to do the Execution, if we will be but quiet Spectators of the Quarrel. So that this negative Notion of Allegiance, contributes more to their safety, than a larger would do.

But let the Composers or Parties concern'd, intend what they please, he that to clear the doubt, does declare to the Magistrate that

that he would only be understood of patience and submission, is in conscience bound no further than his own Declaration.

Let it not be said that I must be suppos'd to take it in the publick sense, mauger any addition or explanation of mine. For words do but signifie by contract; and oblige me to make them good in no other sense, but that, wherein he with whom I treat and confer, and I have agree'd. And if men please to correspond by Cipher, and to the intent that Strangers may not attain the secret, will covenant that Allegiance should stand for Rebellion and Religion for Atheism or Impiety; after this he that should use them in their common acceptation were a cheat and a liar. *Nero* would sometimes command those that had offended him, to die at an hours warning; and if they made any hesitation or doubt to dispatch themselves; sent a Physitian to cure them. *Ita enim vocabat venas mortis gratia incidere.* Now had this Confident of his perform'd the Command according to the Letter, and by wholesome and seasonable Applications, stopt the Blood and restor'd the Life of the languishing disfavorite; he had plainly falsifi'd with his Master. Or if this Instrument of his, had given the Emperor notice, that if he were dead, the sign should be that he is recover'd; he was no deceiver if the Emperor would not so understand him. Truth requires no more, but that I do my endeavor to invest my meaning in such Language; that the party may know the real Thoughts and Purposes of my Soul. And if he will misunderstand me, he deceives himself. The Governors in this case may question whether I have fulfill'd the Law; and if not, they may still inflict the penalty, and proceed to deprive me, but can with no Color charge me with Falshood. I dealt faithfully and clearly with the Bench; but whether they did so with the Supream, when they accepted of the Declaration, let those who are more concern'd, dispute.

3. *Whether the Obligation to the first may not be thought to cease or expire before the other was superinduc'd?*

When the Expressions are most absolute and positive, there must be several covert Conditions imply'd even in Oaths themselves. To set down all the Cautions and Restrictions, or all the Circumstances wherein they should be reputed invalid is not possible; for as no human Prudence can foresee all Events, so no Art can provide Laws, or invent inexorable words that will be equitable upon all Emergencies and Occasions: Nor is it practicable, for the possible Accidents are so many, that it would swell the

Oath

Sueton.

Nero 37.

Oath of Allegiance to a vast Book of Conscience ; so many distinctions would make it rather intricate to many Capacities, and immemorable unto all ; it would trouble all Transactions, perhaps give the captious more advantage to elude it, and scarce allow space in the Courts to administer it. It's necessary therefore it should be summarily express, but it is as necessary that there should be many reservations understood. Now that positive Oaths must have some implications, the Casuists prove from the Example of Solomon, *He swore that he would not slay Adonijah*, 1 Kings 1. 51, 52. and yet Cap. 2. v. 20-22, *he swore Adonijah should die* ; between which, if no condition was understood there is evident Contradiction : But the Nature of the thing makes it apparent, that the first promise was upon a tacit Supposition, that he should attempt nothing against the Government, or else his pardon to be void. *Ariston* in *Herodorus* perswades his intimate Friend and Companion *Agetus*, to enter Articles in a frolick, and confirm them with an Oath, to grant to each other any one thing that they requested : *Agetus* pitch upon some pretious Utensil, and that done *Ariston* demanded his Wife. Does any man think that *Agetus* was bound to perform ? *Dymnus* makes *Nicomachus* swear that he would never discover that secret which he was about to commit to him ; then he declares a Conspiracy against *Alexander*, which within three Days was to be put in Execution ; *Nicomachus* honestly and constantly denies, that ever he gave his Faith to conceal a Treason. The Oath of Allegiance is liable to exceptions as well as any other. *Trebonianus* swears to pay homage and acknowledgment for his *Villa of Ramola*, and all the Royalties of *Panizza* to his Landlord *Calander*, but if the Land or Possessions be alien'd, or swallow'd up in an Earthquake, or drown'd in the Sea, he is not bound to pay for that which is not. What is it that excuses these but Equity ? And where ever there is equal reason, there is equal dispensation.

This I suppose will be allow'd, *Si is ad cuius utilitatem spectat Gros, de eam nolit, non tenebitur qui iuravit*. The swearer is acquitted if he to whom the right accrues will not accept, or is content to relinquish. *Quilibet potest renunciare juri pro se introducto*. Any man may wave or resign an Interest, to which he hath the most undoubted Right. King *Charles* the Second makes sale of *Dunkirk*, his Ancestors upon several Treaties, have artic'd to surrender several Towns and Counties to the King of *Scots*. And though the Inhabitants might be his sworn Subjects, yet being thus alien'd

Erato. cap.

62.

Q. Curt. 6.

S. 7.

Duff. du-

bin. pag.

271.

jur. bell.

13. S. 18.

and

and abandon'd by him, are releas'd from their Allegiance. And as in a part, so in the whole, for if *Dioclesian* and *Charles* the Fifth retire, and will not act in the Affairs of the Empire, the Subjects are not to be blam'd, that submitted themselves to others.

That this was the Case, we have the Testimony of two Houses of Convention, who resolv'd it upon a mature debate, and upon that Foundation laid all their after-proceedings. If it was not altogether voluntary, because the absenting of his Person might be the effect of a just fear, yet the stop put to the Administration of Affairs seems to have been done with more free Consent; he could not be compell'd to carry away the Seals. All was done with an unwilling Willingness; but if that would nullify it, no Alienation could be valid. When a Prince delivers up, in pursuance of a Treaty, some Town or Country upon the Frontiers of his Kingdom, 'tis only because he is distress'd; and were it not to prevent or compose a quarrel, which he fears would be more fatal to him, would never have resign'd it. And truly speaking, a man cannot be necessitated to do any thing. That which we call so, is but some hard Choice, when we prefer a less before a greater Mischief.

But this I would not urge too far. If it be otherwise, the Imposers have only deceiv'd themselves. For a promise upon a mistake, or an Oath upon the presumption of a thing that is not, leaves no Obligation. *Titius* and *Sabina* come to Church to contract Marriage, but when the Bridegroom has repeated his part, the Damsel upon some sudden instinct or repentance, does finally refuse to say the Counterpart, Will any man say that *Titius* is now become a Husband without a Wife? The vow was of no force, because the Supposition fail'd upon which it was grounded; that his Spouse would have plighted her Faith to him afterwards. Upon these Foundations I raise this Conclusion, That there is no inconsistency between the two Oaths: For if the Matter of Abdication be true, the first is void, and if it be false, the later.

Suppose it to have been pure Force or Compulsion, if I might call that a Conquest, there would spring new Solutions. But because the Consequences to which that might be improv'd, would be too formidable upon another account, I let go the advantage.

However 'tis certain there was a Dissolution of Government. The Fountain once stop'd, the Stream does soon dry up; all such as he left in Authority, refus'd or were afraid to act, so that here
was

was a perfect *Interregnum* or pure State of Nature. How would the *Leviathan* have smil'd, to have seen his *Chimera* real?

Things standing thus, it was absolutely necessary, there should be some Government establish'd. Anarchy is as much to be abhor'd as a *Vacuum* in Nature, to avoid which, every Body makes haste to leave its Station, and moves contrary to the Laws of its particular being, lest the sides of the Universe should crack, and fall, and with its Weight crush every Creature. So to fill a vacant Throne, and save a Kingdom from Confusion, men may break through all Impediments, and the most sacred Bonds must relax a little. All Principles of Religion and Justice, must bow to this, That there must be Government.

And if that be necessary, so are all those means without which that cannot be attain'd: *Quando lex aliquid alicui concedit, concedere videtur & id, sine quo res ipsa esse non potest.* And therefore it was necessary, that the Sovereign Power should be lodg'd in some Body that might see to the Execution of Laws, and the Administration of all Affairs. It was as necessary they should pitch upon the Person; who if he had not receiv'd it by Votes, might have claim'd by a higher Title. There's no room for a debate, whether they shall choose a Candidate, who if repuls'd, is able to take all that we deny, and more. *Cornelius* went to the Senate, and in the Name of the Army demanded the Consulship for *Augustus*; *Suet. Aug. 26.* while they demur'd, he laid his hands upon his Sword, and said, if they would not make him Consul, that should.

I know 'twill be thought this was not necessary, because there was another and better expedient; it had been but recalling the King, and then all things would have run in the right Stream. But this was not possible. If the Majority did not like that motion, what could baffl'd Loyalty do more? Such must needs fall in with the rest. *Fit temeritatis aliena comes Spuriinna, primo coactus, Tacit. Hist. mox velle simulans*—Or if all the Convention should have invited him back, there was no probability that he would have return'd, while the same rub was in the way which caus'd him to withdraw, and who had the Power to remove it?

If a Governor was necessary, so was it that he should be King, not only to indemnify all that had or should act; but to fit the frame of our Laws, which are compos'd like *Lyssa's* Speech; you cannot alter a word but you will spoil the Sentence. There can no other Title be substituted in its stead, which will cohere with all Cases and Occasions

'Twas

It was necessary this Governor should be submitted to, and warranted against all unjust pretenders; and secur'd from those who enjoy'd his Protection, yet this could be call'd by no other Name than Allegiance. Nor could the Laws have taken hold of an Offender in that Point, under any other Notion.

Bacon, de
Aug. Scient.

Many things seem harsh and unjust, when we look at the last Act only; which would change their Aspect, if we would begin at the Bottom of the Cause, and follow it by the same steps it advanced. The Stories which *Suetonius* reports of *Nero* and *Claudius* did seem, to a Learned Lord, fabulous; and beyond all Belief; but when he met the same Actions in *Tacitus* invested with Circumstances of Times, Persons and Inducements, they were not improbable. These Proceedings, and this Allegiance at which we boggle, could not appear so horrid and strange, if we would take our stand a while at the Necessity of Government, and see by what a Series of Necessities they were led to the Top and Crown of all. For *Necessitas non habet legem*.

F I N I S